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NOV 04 2004

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In re Application of:
Craig Reding, et al.
Application No. 09/154,965
Filed: September 17, 1998
For: **METHODS AND APPARATUS FOR
AUTOMATING THE SERVICING OF
TELEPHONE CALLS INCLUDING
REQUESTING DIRECTIONAL AND/OR
OTHER TYPES OF INFORMATION**

**DECISION
ON PETITION**

This is a decision on the Petition to Withdraw the Holding of Abandonment, allegedly filed on October 2, 2002 and re-filed on July 22, 2004 which is treated as pursuant to MPEP §711.03 and 37 C.F.R. §1.181(a). No fee is required.

The petition is granted.

This application became abandoned for failure to timely file a response to the notice of non-responsive Office action mailed November 21, 2001, which set a shortened statutory period of one (1) month to reply. A Notice of Abandonment was mailed on September 10, 2002.

Petitioner alleges to have timely filed a proper response to the notice of non-responsive Office action mailed November 21, 2001. In support, petitioner has provided as evidence, a copy of said response, which included a Certificate of Facsimile Transmission dated December 19, 2001. Also included with the response is a copy of an Auto-Reply Facsimile Transmission indicating that an 8-page document from Petitioner was received in the U.S. Patent and Trademark Office on December 19, 2001.

37 C.F.R. § 1.8 Certificate of mailing or transmission states in part:

(a) Except in the cases enumerated in paragraph (a)(2) of this section, correspondence required to be filed in the Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.

(1) Correspondence will be considered as being timely filed if:

(i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:

(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or


(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and

(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated. [emphasis added]

Petitioner is also the one who executed the certificate of transmission. Thus, satisfying the personal statement requirement. Accordingly, it is deemed that the original response was received on December 19, 2001 and subsequently misplaced. The Notice of Abandonment is vacated and the holding of abandonment withdrawn.

The application file is being forwarded to the technical support staff for entry of the copy of the original response which accompanied the subject petition. Thereafter, the application will be forwarded to the Examiner for appropriate action in due course.

For future reference, Applicants might want to note that all future facsimile transmissions to the Office should be to the Official Fax number for the entire Patent and Trademark Office (i.e., 703-872-9306).



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